IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 9TH AUGUST 2007 / 18TH SRAVANA 1929

WP(C).No. 24045 of 2007(K)

OS.16/2005 OF SUB COURT,KATTAPPANA.

PETITIONERS:

1. **KURIAN, S/O.THOMAS, AGED 73 YEARS, PADAVIL HOUSE, KONGINIPADDAVU, KATTAPANA VILLAGE, UDUMBANCHOLA TALUK, IDUKKI DISTRICT.**
2. **GRACY KUTTY, W/O.KURIAN, AGED 66 YEARS, PADAVIL HOUSE, KONGINIPADDAVU, KATTAPANA VILLAGE, UDUMBANCHOLA TALUK, IDUKKI DISTRICT.**

BY ADV. SRI.BIJU ABRAHAM, SRI.SREEVALSAN.V.

RESPONDENT:

MATHEWS, S/O.MATHEW KURIAN, CHENNANKUNNEL HOUSE, SANTHIGRAM, KALKOONTHAL VILLAGE, REPRESENTED BY THE POWER OF ATTORNEY, FR.N.P.ALIYAS.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09/08/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J.

WP(C)No. 24045 OF 2007 K

Dated this the 9th August, 2007.

JUDGMENT

This writ petition is filed challenging the order of dismissal of I.A.1123/06 in O.S.16/05. The defendants are the petitioners. The suit was decreed ex parte and in order to set aside the ex parte decree they moved I.A.940/06. It was dismissed. To restore that I.A, I.A.1123/06 was filed. It was also dismissed as the petitioners were absent. The order in I.A.1123/06 would go to show about the inconvenience of the lawyer. In these type of matters the approach of the court should be more liberal for the reason that principles of natural justice always demands that as far as possible the parties should be heard before disposing of the matter unless it is vitiated by gross negligence or grave misconduct. I feel, in this case there is no such gross negligence or grave misconduct. Since the respondent has not entered appearance herein, I set aside the order and direct the court below to consider it sympathetically and liberally after hearing the other side as well. The writ petitioner is directed to appear before the court below on 7.9.2007. Writ petition is disposed of accordingly.

M.N.KRISHNAN
Judge

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